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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/672,021 | 09/26/2003 | Andrea Tavelli | 163-509 | 7686 |

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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

| EXAMINER | |
|---|---|
| COLE, ELIZABETH M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1771 | |

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/672,021 | TAVELLI ET AL. | |
| | Examiner | Art Unit | |
| | Elizabeth M. Cole | 1771 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *01 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. In claim 1, it is not clear what is meant by the limitation that "each interlacing of yarns or bands is characterized in that its width is greater than its thickness". Does this refer to where the individual bands or yarns interlace, or does it refer to the overall width of the outer layer itself? It appears that Applicant may be intending to claim an interlaced layer comprising bands which have a thickness which is less than their width, i.e., bands having a strip or ribbon shape, but this is not what is set forth in the claim as it is currently written. For purposes of the art rejection it will be assumed that this is the meaning which Applicant intended.

3. In claim 11 it is not clear what is meant by "hairs". Does this refer to a pile surface? Flocked fibers? Any type of fabric? The claimed structure is unclear. In response to this rejection, Applicant argues that the Applicant has defined series of hairs in the specification. However, the specification points to figure 2 which shows a fabric comprising fibers. Do the fibers correspond to hairs? Hairs is generally not used as a term to describe fibers in this art. Also, the term "series" seems to define a particular ordered structure or array, but that is not what is shown in figure 2. Therefore, this rejection is maintained.

4. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not describe "each interlacing of yarns or bands is characterized in that its width is greater than its thickness". The specification provides support for a limitation wherein each band has a width that is greater than its thickness but not for the limitation that each interlacing has a width that is greater than its thickness.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-12, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al, U.S. Patent No. 6,100,208 in view of Henningsson et al, U.S. Patent No. 6,080,688. Brown discloses an outdoor protective fabric which comprises an inner layer of nonwoven fibers, an outer layer which can comprise a woven or nonwoven fabric which is combined with the inner layer through a barrier layer and/or by extrusion. See col. 6, lines 43-65. The barrier layer is a water impervious layer and may comprise films, foams, non-porous films, micro-porous films and micro-porous nonwoven materials. Suitable films may comprise polyethylene, polypropylene or polyurethane films. See col. 9, line 58 – col. 10, line 48. The outer layer may comprise a woven web, knitted fabric, spunlaced material, bonded carded webs, needles punched material or spunbonded nonwoven webs. The outer layer fabric may be formed from polyolefins such as polypropylene or polyethylene. See col. 10, lines 48-65. The woven fabric

would necessarily meet the limitation of the interlacing of the yarn being at substantially 90 degrees, (claim 3), the nonwoven fabrics would inherently meet the limitations regarding the fibers being interlaced obliquely, (claim 4). While Brown discloses that the outdoor fabric can be used as a car cover, it is noted that the limitations regarding the use of the vehicle as well as the limitations regarding it's suitable for being withheld and blocked do not recite any structure and therefore do not further limit the claims. With regard to claim 11, since Brown teaches a nonwoven web as the interior layer formed from microfibers, these fibers would correspond to the claimed hairs. With regard to claim 20, since this claim is a statement of an intended use of the fabric, it is not given patentable weight, (i.e. a fabric is claimed, not a packaged item).

7. Brown differs from the claimed invention because Brown does not disclose the particular structure of the fibers which make up the outer layer. Henningsson et al teaches protective fabrics having longtime UV-stability which are useful shading which comprise flexible strips with a thickness of less than 100 microns so that the thickness is less than the width of the strip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed the particular fabric of Henningsson as the outer layer in Brown, motivated by the teaching of Henningsson et al that the fabric provides excellent shading and has good UV-stability.

8. Brown differs from the claimed invention because Brown does not teach the length of the claimed hairs. However, since Brown teaches employing meltblown microfibers to form a soft inner layer, it would have been obvious to have selected the

particular lengths of the microfibers through the process of routine experimentation in order to form a fabric having the desired softness and hand.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al, U.S. Patent No. 6,100,208 in view of Henningsson, U.S. Patent No. 6,080,688 as set forth above, and further in view of Gillem, U.S. Patent No. 5,029,933 and JP 20000108685. Brown et al discloses a protective cover for vehicles as set forth above. Brown et al differs from the claimed invention does not disclose attaching various straps and securing means for attaching the cover to the vehicle, does not teach configuring the cover to particular vehicles and does not teach the use of hook and buckles for attaching the cover to the vehicle. Gillem teaches that car covers can be formed which are configured to a particular car shape and that such covers can employ straps to hold the cover onto the vehicle. See abstract, drawings, as well as col. 2, lines 58 – col. 3, line 18. JP '685 is cited to show that buckles can be used in conjunction with the other fastening means for securing the cover onto the vehicle. See abstract. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed straps, hooks and buckles to secure the car cover to the vehicle in Brown. It further would have been obvious to have shaped the

cover so that it corresponded to a particular vehicle shape. One of ordinary skill in the art would have been motivated to shape and secure the cover to the vehicle as taught by Gillem by the expectation that this would enhance the protection provided by the cover by attaching it more securely to a vehicle whose shape the cover mirrored.

11. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's arguments regarding the 112 2nd rejection of claim 11 are addressed in paragraph 3 above.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

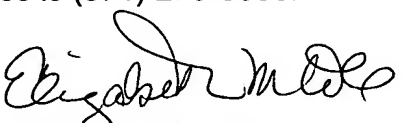
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

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